

D. Maimon Kirschenbaum (DK 2448)
JOSEPH & HERZFELD LLP
757 Third Avenue
25th Floor
New York, NY 10017
(212) 688-5640
(212) 688-2548 (fax)

Jeffrey E. Goldman (JG-4693)
LAW OFFICES OF JEFFREY E.
GOLDMAN
501 Fifth Avenue
Suite 1900
New York, NY 10017
Tel: (212) 983-8999

*Attorneys for Named Plaintiffs and the FLSA
Collective Plaintiffs*

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

-----X
**ISAIAH GERAFFINO, LENFORD
JOHNSTON, SARA FAUST, SUKOL
PHAIROJ, CHELSEA LINDMAN,
VIRGINIA WORLEY, ROSALINA
WALTER and THOMAS CAMPBELL on
behalf of themselves and all others similarly
situated,**

INDEX NO: 07-cv-06729 (RJS)

Plaintiffs,

v.

**JEAN-GEORGES ENTERPRISES, LLC;
JEAN-GEORGES MANAGEMENT LLC;
PERRY STREET PROJECT LLC;
TRIOMPHE RESTAURANT CORP. d/b/a
JEAN GEORGES RESTAURANT and
NOUGATINE; ORIGINE LLC d/b/a JOJO
RESTAURANT; SPICE MARKET LLC;
LEONARD STREET LLC d/b/a/ 66
RESTAURANT; JEAN-GEORGES
VONGERICHTEN and JOHN DOES 1-10**

Defendants.

-----X
DECLARATION OF SARA FAUST

I, Sara Faust, under penalty of perjury, affirm as follows:

1. My name is Sara Faust.

2. I was employed by Defendants as a server at Perry Street restaurant ("Jean-Georges") from September 2006 until May 2007.

3. Throughout my employment at Jean-Georges, I was paid less than the New York minimum wage of \$6.75 or \$7.15 per hour and the federal minimum wage of \$5.15 per hour.

4. When I began working at Perry Street, I was informed by managers and coworkers that the restaurant required tipped employees to pool their tips.

5. I was never asked whether I wanted to be in the tip-pool, and the terms of the tip pool were maintained and enforced by the restaurant's management, not the servers or similarly tipped employees.

6. Throughout my employment at Perry Street, Perry Street required us to share our tips with managers, by allowing the managers to be part of the tip-pool.

7. Although Perry Street's managers participated in the tip-pool under the title "maitre d'" and/or other titles, their job duties illustrate that they were in fact managers, and not employees who are traditionally tipped. To this effect, the managers all had full access to the management office, and/or had their own offices.

8. The managers that were illegally part of the Perry Street tip-pool include but are not limited to, Juan Carlos Ortiz and Julio (last name unknown).

9. Michelle, General Manager, introduced these managers to me as managers, informing me that they were my superiors, and that they had full authority over the terms of my work. To this effect, the employees referred to these people as managers.

10. These managers' primary job duties include: (a) supervising all activity on the floor, (b) disciplining employees, (c) dealing with customer complaints, (d) holding

daily meetings with servers in preparation for each shift, (e) scheduling and/or vacation requests, (f) verifying the money reports at the end of each night, and (g) sending employees home early.

11. The managers communicated to us that they had authority to discipline and, when necessary, terminate employees.

12. I several times witnessed the managers, such as Mr. Ortiz, discipline employees.

13. The managers usually conducted the pre-shift meeting before every shift that I worked at.

14. The managers on duty determined when every service employee such as myself went home early or was required to stay late.

15. The managers on duty typically wore suits, as opposed to server uniforms.

16. For every shift, the managers assigned each waiter to her section.

17. When for any given reason a charge was to be 'comped', *i.e.*, voided, the managers had authority and routinely authorized these voids for the servers.

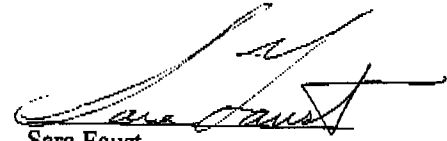
18. When a customer asked to speak to a manager, they were referred to the managers on duty.

19. The above-mentioned managers spent less than 15% of their working time providing direct customer service, such as bringing food to customers, bussing etc.

20. Perry Street employed hosts/hostesses who would greet and seat customers.

I affirm, under penalty of perjury, that the above and foregoing information is true
and correct.

Dated: New York, New York
January 16, 2008



Sara Faust